

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Thursday, July 06, 2017

Hearing Room 301

1:00 PM

1:14-14939 Peter Brook

Chapter 11

#1.00 Post-confirmation status conference re chapter 11 petition

fr. 1/22/15; 5/7/15; 6/4/15; 6/25/15; 8/6/15; 10/15/15;
11/12/15; 1/17/16; 3/17/16; 7/21/16; 1/26/17; 6/8/17

Docket 1

Tentative Ruling:

In light of the debtor's continuing failure to file a post-confirmation status report, the Court intends to issue an Order to Show Cause why this case should not be converted to one under chapter 7.

Party Information

Debtor(s):

Peter Brook

Represented By
Nam Le

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1:15-10741 Emil Soorani, M.D.

Chapter 7

#2.00 Motion to extend bar date for filing complaint objecting to debtors discharge

Docket 226

Tentative Ruling:

Grant.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Emil Soorani, M.D.

Represented By
Richard P Ross

Trustee(s):

Amy L Goldman (TR)

Represented By
Annie Verdries
Doah Kim
Lovee D Sarenas

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1:16-11351 Oscar Navarro

Chapter 11

#3.00 Confirmation hearing re chapter 11 plan of reorganization

Docket 48

Tentative Ruling:

The Court will deny confirmation of the debtor's *Individual Debtor's Chapter 11 Plan of Reorganization* ("Plan") [doc. 48].

The Plan contains two impaired classes. Class 5(b) consists of the claim of secured creditor Deutsche Bank National Trust Company ("Deutsche Bank"). (Plan, at p. 5.) On November 28, 2016, the debtor and Deutsche Bank filed a stipulation re: plan treatment of Deutsche Bank's claim ("Stipulation") [doc. 54]. Under the terms of the Stipulation, the parties agreed to the value of the debtor's real property located at 8233 Paramount Boulevard, Pico Rivera, CA 90660 and its treatment under the Plan. Deutsche Bank also agreed to vote to accept the debtor's Plan. On January 13, 2017, the Court entered an order approving the Stipulation [doc. 66].

Class 6(b) consists of the claims of general unsecured creditors. (Plan, at p. 6.) Under the Plan, the debtor proposes to pay members class 6(b) an amount equal to 3% of their claims totaling approximately \$4,822.93. (Plan, at p. 6; Disclosure Statement ("DS") [doc. 47], at Exh. C.)

On May 15, 2017, the debtor served the Plan, DS, and ballots on all creditors. (See doc. 94.) Per the Stipulation, class 5(b) voted to accept the Plan. (See Plan Ballot Summary [doc. 97], at p. 2.) No member of unsecured class 6(b) returned ballots. (See *id.*) Because no member of class 6(b) voted, class 6(b) is deemed to have rejected the plan. *In re M. Long Arabians*, 103 B.R. 211, 215–16 (9th Cir. B.A.P. 1989) ("the failure or inability of a creditor to vote on confirmation of a plan is not equivalent to acceptance of the plan").

Because not all impaired classes voted to accept the Plan, the Court may not confirm the Plan under § 1129(a) alone. However, the Court may confirm the Plan if it complies with all applicable requirements § 1129(a) (except for § 1129(a)(8)) and if the debtor shows that the Plan does not discriminate unfairly and is fair and equitable

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with respect to each impaired class of claims or interests that has rejected the Plan.

Upon review of the Plan and the *Debtor-in-Possession's Motion to Confirm Chapter 11 Plan of Reorganization* [doc. 96], it appears that the Plan complies with the provisions of § 1129(a), except for § 1129(a)(8).

11 U.S.C. § 1129(b)(1) provides:

Notwithstanding section 510(a) of this title, if all of the applicable requirements of subsection (a) of this section other than paragraph (8) are met with respect to a plan, the court, on request of the proponent of the plan, shall confirm the plan notwithstanding the requirements of such paragraph if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

11 U.S.C. § 1129(b)(2) provides:

For the purpose of this subsection, the condition that a plan be fair and equitable with respect to a class includes the following requirements:

. . .

(B) With respect to a class of unsecured claims--

(i) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property, except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section. . . .

The Plan satisfies § 1129(b)(1) to the extent that the Plan does not discriminate unfairly among members of an impaired, non-accepting class. Under the Plan, all members of class 6(b) will receive an amount equal to 3% of their claims.

Under § 1129(b)(1), a plan may be confirmed despite non-accepting classes if the plan

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is fair and equitable as to impaired, non-accepting classes. Under § 1129(b)(2), a plan is fair and equitable as to unsecured creditors if such creditors (i) receive an amount equivalent to the full value of their claim on the effective date of the plan; or (ii) no junior claim or interest receives or retains any property under plan, except for post-petition income in individual chapter 11 cases.

The Plan violates the absolute priority rule, which applies in individual chapter 11 cases. "[A]n individual debtor may not cram down a plan that would permit the debtor to retain prepetition property that is not excluded from the estate by § 541, but may cram down a plan that permits the debtor to retain only postpetition property." *Zachary v. California Bank & Trust*, 811 F.3d 1191, 1196 (9th Cir. 2016).

Here, the unsecured class 6(b) claims will not be paid in full under the debtor's Plan as of the effective date. In addition, the debtor proposes to retain pre-petition property while paying unsecured creditors less than the full value of their claims. Accordingly, the Plan is not fair and equitable as to class 6(b) under § 1129(b)(2). The Court cannot confirm the Plan at this time.

The Court will prepare the order.

Party Information

Debtor(s):

Oscar Navarro

Represented By
Onyinye N Anyama

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1:16-11351 Oscar Navarro

Chapter 11

#4.00 Status conference re chapter 11 case

fr. 6/16/16; 12/1/16; 2/16/17; 3/9/17; 4/6/17; 5/4/17

Docket 1

Tentative Ruling:

Ruling from 5/4/17

Is the debtor current on fees payable to the United States Trustee?

Party Information

Debtor(s):

Oscar Navarro

Represented By
Onyinye N Anyama

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1:16-13118 Gloria Angelica Garcia

Chapter 11

#5.00 First amended disclosure statement hearing for debtor's chapter 11 plan
fr. 5/25/17

Docket 77

Tentative Ruling:

The debtor must address the following:

In Exhibit F to the *First Amended Individual Debtor's Disclosure Statement in Support of Plan of Reorganization* ("DS") [doc. 77], the debtor projects monthly income in the amount of \$6,390.00. This amount includes the following sources of income:

Employment Income	\$2,265.00
Disability Income	\$1,275.00
Tax Refund	\$600.00
Rental Income	\$2,000.00
Family Member Contribution	\$250.00

Employment Income. On June 16, 2017, the debtor filed her 2016 tax returns with the Court [doc. 75]. The debtor's 2016 tax returns show that the debtor's spouse had an annual adjusted gross income of \$18,550. (*See* doc. 75, at p. 6.) An annual income of \$18,550 would result in an average monthly income of \$1,545.83. This monthly income of \$1,545.83 in 2016 is significantly less than the debtor's projected average monthly employment income of \$2,265.00.

Tax Refunds. Based on her spouse's adjusted gross income, deductions, exemptions, and credits as stated in her 2016 tax returns, the debtor is likely to receive a similar refund amount in 2017. Thus, the projected \$600.00 per month in tax refunds in Exhibit F to the DS appears to be accurate.

Family Member Contribution. Attached as Exhibit G to the DS is a declaration signed by the debtor's daughter, attesting to her willingness and ability to contribute \$250.00 per month to the debtor's *First Amended Individual Debtor's Chapter 11 Plan of Reorganization* ("Plan") [doc. 78]. Based on the paystubs attached to the

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declaration, this proposed monthly payment of \$250.00 is nearly 16% of her monthly net income of approximately \$1,594.68.

Proposed dates and deadlines regarding the Plan:

If, pursuant to 11 U.S.C. § 1125, the Court approves the DS:

Hearing on confirmation of the Plan: **September 14, 2017 at 1:00 p.m.**

Deadline for the debtor to mail the approved disclosure statement, the Plan, ballots for acceptance or rejection of the Plan and to file and serve notice of: (1) the confirmation hearing and (2) the deadline to file objections to confirmation and to return completed ballots to the debtor: **July 28, 2017.**

The debtor must serve the notice and the other materials (with the exception of the ballots, which should be sent only to creditors in impaired classes) on all creditors and the United States Trustee.

Deadline to file and serve any objections to confirmation and to return completed ballots to the debtor: **August 25, 2017.**

Deadline for the debtor to file and serve the debtor's brief and evidence, including declarations and the returned ballots, in support of confirmation, and in reply to any objections to confirmation: **September 4, 2017.** Among other things, the debtor's brief must address whether the requirements for confirmation set forth in 11 U.S.C. § 1129 are satisfied. These materials must be served on the U.S. Trustee and any party who objects to confirmation.

The debtor must submit an Order incorporating the above dates, times and deadlines no later than **July 13, 2017.**

Ruling from 5/25/17

The debtor must address the following:

Amount of the Secured Claim of Wells Fargo Bank, N.A. The *Individual Debtor's Chapter 11 Plan of Reorganization* [doc. 54] (the "Plan") states that the amount of the secured claim of Wells Fargo Bank ("WFB") is \$401,269.37 (as stated in WFB's

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proof of claim 3-1). On January 5, 2017, the Court entered an order determining that the debtor's real property, located at 3064 Live Oak Street, Huntington Park CA 90255 (the "Property"), has a value of \$405,000.00, as of October 28, 2016 [doc. 39]. That order further states that WFB has a secured claim in the amount of \$403,270.61, *not* \$401,269.37.

Satisfaction of WFB's Secured Claim. In proof of claim 3-1, WFB has itemized prepetition arrearages in the amount of \$77,444.85. In her monthly operating report for April 2017, the debtor indicates that she has not made any postpetition payments to WFB and that there are further postpetition arrearages in the amount of \$12,581.50. The debtor has not provided for these postpetition arrearages in the Plan, to the extent accumulating interest would increase the amount of WFB's secured claim to equal as much as the value of its interest in the Property.

Payments to Class 6(b) Creditors. On page 5 of the Plan, the debtor states that she will make "quarterly payments of \$25" to general unsecured creditors, such that they will receive 24% of their claims over five years, with no interest. In Exhibit C to the *Individual Debtor's Disclosure Statement in Support of Plan of Reorganization* (the "Disclosure Statement") [doc. 55], the debtor lists a total of \$6,225.85 in general unsecured claims. 24% of \$6,225.85 equals \$1,494.20. If the debtor intends to pay \$1,494.20 in equal monthly installments over five years, the monthly payment will approximately \$25. Therefore, the quarterly payment amount should be \$75.

Amended Schedule E/F. The debtor attached an "Amended Schedule E/F" as Exhibit C to the Disclosure Statement. The debtor has not separately filed these amended schedules with the Court.

Postpetition Income Taxes. The debtor's amended Schedule J [doc. 37] includes payroll deductions for income taxes for the debtor's spouse in the amount of \$129.70. However, neither the Declaration of Current/Postpetition Income and Expenses (Exhibit A to the Disclosure Statement) nor the debtor's cash flow projections (Exhibit F to the Disclosure Statement) include any payroll deductions for the debtor's spouse.

Monthly Income. Contrary to the objection of the United States Trustee, from a review of the debtor's monthly operating reports for the last six months, it appears that the debtor is properly accounting for her disability income and her spouse's

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income, which she deposits into her personal debtor-in-possession account ending in 8554, and her rental income, which she deposits into her rental debtor-in-possession account ending in 8497. However, the Court understands the United States Trustee's concern that the debtor does not appear to have sufficient income to fund the Plan.

If not for the lump sum tax refund in the amount of \$7,292 which the debtor received in February 2017 (as stated on page 4 of the Disclosure Statement), the debtor's average monthly income for the past six months is \$5,350.86.

Month	Personal	Rental	Total
Nov 2016	\$3,725.07	\$2,000.00	\$5,725.07
Dec 2016	\$3,278.00	\$2,000.00	\$5,278.00
Jan 2017	\$3,666.00	\$2,000.00	\$5,666.00
Feb 2017	\$3,041.10	\$2,000.00	\$5,041.10
Mar 2017	\$3,120.00	\$2,000.00	\$5,120.00
Apr 2017	\$3,275.00	\$2,000.00	\$5,275.00
Average			\$5,350.86

\$5,530.86 is less than the debtor's projected monthly income of \$6,020 (Exhibit F to the Disclosure Statement). Even if the \$7,292 tax refund were divided by twelve (\$607.67) and added to the debtor's monthly income for the each of next 12 months, the debtor would have only \$5,958.53 in monthly income. The debtor may not receive similarly large tax refunds in the future, which would further impact feasibility. Apparently, the debtor has not yet filed her 2016 income tax returns. As of this time, the Court cannot assess the debtor's current tax liability or whether the debtor's income will be supplemented by any future tax refunds.

Party Information

Debtor(s):

Gloria Angelica Garcia

Represented By
Anthony Obehi Egbase
Crystle J Lindsey
Kevin Tang

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1:16-13118 Gloria Angelica Garcia

Chapter 11

#6.00 Status conference re chapter 11 case

fr. 12/22/16; 4/20/17; 5/25/17

Docket 1

Tentative Ruling:

The debtor's March 2017 monthly operating report ("MOR") shows an ending balance of \$10,000 for her rental account ending in 8497. However, the debtor's April 2017 MOR shows a beginning balance of \$5,399.15 and an ending balance of \$7,399.15 for her rental account. The debtor's May 2017 MOR shows a beginning balance of \$12,000 for her rental account.

Month	Beginning Balance	Receipts	Disbursements	Ending Balance
Mar-17	\$8,000.00	\$2,000.00	\$0.00	<i>\$10,000.00</i>
Apr-17	<i>\$5,399.15</i>	\$2,000.00	\$0.00	<i>\$7,399.15</i>
May-17	<i>\$12,000.00</i>	\$2,000.00	\$11,107.73	\$2,892.27

Party Information

Debtor(s):

Gloria Angelica Garcia

Represented By
Anthony Obehi Egbase
Crystle J Lindsey

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1:17-11255 Ikechukwu Mgbeke

Chapter 11

#6.10 Status conference re chapter 11 case

fr. 6/22/17

Docket 1

Tentative Ruling:

Contrary to the Court's instructions from the last status conference, the debtor has not filed a declaration in support of the status report [doc. 13].

The Court will continue this hearing to **1:00 p.m. on July 13, 2017**, to be held in conjunction with the U.S. Trustee's motion to dismiss this case [doc. 16]. No later than **July 10, 2017**, the debtor must file a declaration in support of the status report.

Appearances are excused on July 6, 2017.

Party Information

Debtor(s):

Ikechukwu Mgbeke

Represented By
Anthony Obehi Egbase

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1:17-11136 Capri Coast Capital, Inc.

Chapter 11

#6.20 U.S. Trustee's Motion under 11 U.S.C. § 1112(b) to dismiss or convert case with an order directing payment of quarterly fees and for judgment thereon

fr. 6/22/17

Docket 20

Tentative Ruling:

Tentative Ruling from 6/22/17

Pursuant to 11 U.S.C. §§ 1112(b)(1) and (b)(4)(C), (F) and (H), this case will be dismissed. Based upon the Court's review of the debtor's schedules of assets and liabilities and statement of financial affairs, filed on May 15, 2017, and the claims docket, the Court concludes that it is in the best interest of creditors and the estate to dismiss this case.

The United States Trustee must submit an order within seven (7) days.

Party Information

Debtor(s):

Capri Coast Capital, Inc.

Represented By
Peter C Bronstein

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Hearing Room 301

1:00 PM

1:17-11136 Capri Coast Capital, Inc.

Chapter 11

#6.30 Status conference re chapter 11 case

fr. 6/15/17; 6/22/17

Docket 1

Tentative Ruling:

Has the debtor retained bankruptcy counsel with successful experience in representing a chapter 11 debtor in possession to assist with this case?

Tentative ruling from 6/22/17

Provided that by the date of the status conference, the debtor has (i) submitted evidence in support of its status report as required by the Court's *Order Setting Hearing on Status of Chapter 11 Case and Requiring Report on Status of Chapter 11 Case* [doc. 17]; and (ii) cured the deficiencies identified in the United States Trustee's *Motion Under 11 U.S.C. § 1112(b) to Dismiss or Convert Case with an Order Directing Payment of Quarterly Fees and for Judgment Thereon* [doc. 20], the Court will set the following deadlines:

Deadline to file proof of claim ("Bar Date"): **August 28, 2017.**

Deadline to mail notice of Bar Date: **June 26, 2017.**

The debtor(s) must use the mandatory court-approved form Notice of Bar Date for Filing Proofs of Claim in a Chapter 11 Case, F 3003-1.NOTICE.BARDATE.

Deadline for debtor(s) and/or debtor(s) in possession to file proposed plan and related disclosure statement: **September 11, 2017.**

Continued chapter 11 case status conference to be held at **1:00 p.m. on September 21, 2017.**

The debtor(s) in possession or any appointed chapter 11 trustee must file a status report, to be served on the debtor's(s') 20 largest unsecured creditors, all secured creditors, and the United States Trustee, no later than **14 days** before the continued

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status conference. The status report must be supported by evidence in the form of declarations and supporting documents.

The Court will prepare the order setting the deadlines for the debtor(s) and/or debtor (s) in possession to file a proposed plan and related disclosure statement.

The debtor(s) must lodge the Order Setting Bar Date for Filing Proofs of Claim, using mandatory court-approved form F 3003-1.ORDER.BARDATE, within seven (7) days.

Ruling from 6/15/17

Contrary to the *Order Setting Hearing on Status of Chapter 11 Case and Requiring Report on Status of Chapter 11 Case*, the debtor has not submitted evidence in support of its status report.

In light of the pending motion to dismiss filed by the United States Trustee, the Court will continue the status conference to **June 22, 2017 at 1:00 p.m.** to coincide with the hearing on the United States Trustee's motion.

Appearances on June 15, 2017 are excused.

Party Information

Debtor(s):

Capri Coast Capital, Inc.

Represented By
Peter C Bronstein

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1:14-13981 Encino Center LLC

Chapter 11

#7.00 Objection to proof of claim filed by Hayk Shishoyan dba Encino Tailors
[claim no. 8-1]

fr. 6/22/17

Stip to continue filed 6/22/17

Docket 321

***** VACATED *** REASON: Order approving stip entered 6/26/17
continuing hearing to 7/27/17 at 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Encino Center LLC

Represented By
Sandford Frey
Stuart I Koenig
Marta C Wade
Fredric J Greenblatt

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1:17-11195 Amy Diane Paris

Chapter 7

#8.00 Debtor's motion to dismiss case

Docket 14

Tentative Ruling:

Continue hearing to **August 3, 2017 at 1:00 p.m.** No later than **July 13, 2017**, the debtor must (i) serve a copy of the motion on the Internal Revenue Service ("IRS") as noted below; and (ii) file and serve on all creditors a declaration signed under penalty of perjury attesting to the facts stated in the motion.

The debtor has not served notice of the motion on the IRS in accordance with Local Bankruptcy Rule 2002-2(c) and Fed. R. Bankr. P. 5003(e) and used the addresses set forth in the "Register of Federal and State Government Unit Addresses [F.R.B.P. 5003 (e)]" listed in the Court Manual under Appendix D, available on the Court's website, www.cacb.uscourts.gov, under "Rules & Procedures." In accordance with the foregoing, notice of any future contested matter or adversary proceeding involving the IRS must be served at each of the following addresses:

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

United States Attorney's Office
Federal Building, Room 7516
300 North Los Angeles Street
Los Angeles, CA 90012

United States Department of Justice
Ben Franklin Station
P. O. Box 683
Washington, DC 20044

Appearances on July 6, 2017 are excused.

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CONT... Amy Diane Paris

Chapter 7

Debtor(s):

Amy Diane Paris

Pro Se

Trustee(s):

Amy L Goldman (TR)

Pro Se